

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor:	Russell G. HIGUCHI	Docket No:	4380US (354393)
Patent No.:	6,814,934	Confirmation No.:	8271
Issued:	November 9, 2004	Group Art Unit:	1743
Serial No.:	08/968,208	Examiner:	J. Snay
Filed:	November 12, 1997		
For:	INSTRUMENT FOR MONITORING NUCLEIC ACID AMPLIFICATION		

**REQUEST FOR CERTIFICATE OF CORRECTION OF OFFICE MISTAKE  
UNDER 37 CFR § 1.322**

**Attn: Certificate Of Corrections Branch**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Patentee requests that a Certificate of Correction be issued due to Patent Office mistake in United States Letters Patent No. **6,814,934**, issued **November 9, 2004**, as set forth in the attached PTO/SB/44 (Rev. 04-05) Certificate of Correction. Upon reviewing the claims, the patentee noted the following typographical error was made by the Patent and Trademark Office, which should be corrected as follows:

In column 29, claim 4, line 58, please change "wherein includes" to --which includes-- .

The correct text is shown in previously numbered Claim 36, corresponding to newly renumbered Claim 4 of the issued patent, of the Examiner's Supplemental Notice of Allowability dated September 3, 2004, a copy of which is attached. Claim 36 reads as follows:

"The instrument of Claim 30, which includes a sealed light transmission path between the reaction vessel and the detector."

The changes requested herein occurred as a result of Patent Office mistake such that the Certificate should be issued without fee, as provided in 37 CFR § 1.322.

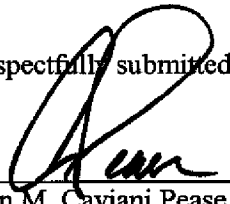
No fees are believed to be due in connection with this request. However, the Director is authorized to charge any fees that may required, or credit any overpayment, to Dechert LLP Deposit Account No. 50-2778 (Order No. 375461-050US (354393)).

Date:

January 29, 2010

**DECHERT LLP**  
**Customer No. 37509**  
Tel: 650.813.4800  
Fax: 650.813.4848

Respectfully submitted,



Ann M. Caviani Pease  
Reg. No. 42,067

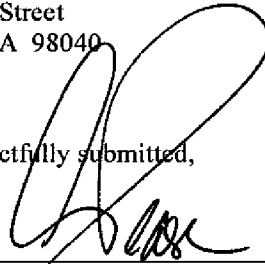
**CERTIFICATE OF SERVICE UNDER 37 CFR § 1.248(a)(4)**

I hereby certify that true and correct copies of a REQUEST FOR CERTIFICATE OF CORRECTION OF OFFICE MISTAKE UNDER 37 CFR § 1.322, a CERTIFICATE OF CORRECTION (PTO/SB/44), and its accompanying attachments, filed with the U.S. Patent and Trademark Office on January 29, 2010, was served in the manner indicated below, on this 29 day of January 2010, to Third Party Requester as follows:

**VIA FIRST CLASS MAIL**

Jeffrey B. Oster  
Member, Troll Busters LLC  
8339 SE 57th Street  
Mercer Island, WA 98040

Respectfully submitted,



Ann M. Caviani Pease  
Reg. No. 42,067

Date: January 29, 2010

**DECHERT LLP**  
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Tel: 650.813.4800  
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**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**

Page 1 of 1

PATENT NO. : 6,814,934  
APPLICATION NO. : 08/968,208  
ISSUE DATE : November 9, 2004  
INVENTORS : Russell G. HIGUCHI

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below.

In column 29, line 58, claim 4, "wherein includes" should read --which includes--.

**MAILING ADDRESS OF SENDER**

Customer Number 37509  
Dechert LLP  
P.O. Box 390460  
Mountain View, CA 94039-0460

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/968,208	11/12/1997	RUSSELL HIGUCHI	9397	8271

22896 7590 09/03/2004

MILA KASAN, PATENT DEPT.  
APPLIED BIOSYSTEMS  
850 LINCOLN CENTRE DRIVE  
FOSTER CITY, CA 94404

EXAMINER

SNAY, JEFFREY R

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental  
Notice of Allowability**

Application No.

08/968,208

Examiner

Jeffrey Snay

Applicant(s)

HIGUCHI, RUSSELL

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a telephone conference held September 1, 2004.
2. ☒ The allowed claim(s) is/are 30, 31, 35-37, 48, 39-40, 44-46 and 49; renumbered 1-12, respectively.
3. ☒ The drawings filed on 17 March 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Jill A. Warden  
SPE  
Art Unit: 1743

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.


Authorization for this examiner's amendment was given in a telephone interview with Vincent Powers on September 2, 2004.

The application has been amended as follows:

After discussions with applicants' representative on the meaning of "thermal cyclers", applicants' representative and Examiner Warden agreed to amend the independent claims to recite an "automated thermal cyclers" in order to resolve any ambiguity. Previously cancelled claims 38 and 47 are being reinstated as new claims 48 and 49 because computer control is not required by such automation. A minor correction is also being made to claim 36.

A complete listing of the claims is attached hereto.

Any inquiry concerning this communication should be directed to Jill A. Warden at telephone number (571) 272-1267.

  
Jill A. Warden  
SPE  
Art Unit 1743

AMENDMENTListing of the Claims (new text is underlined, deleted text is bracketed)

1-29. (Canceled)

1 ~~30.~~ (Currently Amended) An instrument for use in monitoring a nucleic acid amplification reaction comprising multiple thermal cycles, comprising:

(a) [a] an automated thermal cyler capable of alternately heating and cooling, and adapted to receive, at least one reaction vessel containing an amplification reaction mixture comprising a target nucleic acid, reagents for nucleic acid amplification, and a detectable nucleic acid binding agent; and

(b) a detector operable to detect a fluorescence optical signal while the amplification reaction is in progress and without opening the at least one reaction vessel, which fluorescence optical signal is related to the amount of amplified nucleic acid in the reaction vessel.

2 ~~31.~~ (Previously Presented) The instrument of claim ~~30~~, wherein the thermal cyler is adapted to receive a plurality of reaction vessels, each containing an amplification reaction mixture.

32-34. (Canceled)

3 ~~35.~~ (Previously Presented) The instrument of claim ~~30~~, wherein the detector is operable to detect a fluorescence optical signal at a wavelength at or about 570 nm.

4 ~~36.~~ (Currently Amended) The instrument of claim ~~30~~, which includes a sealed light transmission path between the reaction vessel and the detector.

5 ~~37.~~ (Previously Presented) The instrument of claim ~~36~~, wherein the sealed light transmission path is a fiber optic cable.

38. (Canceled)

7 ~~39.~~ (Currently Amended) A system for use in monitoring a nucleic acid amplification reaction comprising multiple thermal cycles, comprising:



(a) at least one reaction vessel adapted to contain an amplification reaction mixture comprising a target nucleic acid, reagents for nucleic acid amplification, and a detectable nucleic acid binding agent;

(b) [a] an automated thermal cycler capable of alternately heating and cooling such a reaction vessel, and

(c) a detector operable to detect a fluorescence optical signal while the amplification reaction is in progress and without opening the at least one reaction vessel, which fluorescence optical signal is related to the amount of amplified nucleic acid in the reaction vessel.

8 ~~40~~. (Previously Presented) The system of claim ~~39~~<sup>7</sup>, wherein the system comprises a plurality of reaction vessels, each adapted to contain an amplification reaction mixture.

41-43. (Canceled)

9 ~~44~~. (Previously Presented) The system of claim ~~39~~<sup>7</sup>, wherein the detector is operable to detect a fluorescence optical signal at a wavelength at or about 570 nm.

10 ~~45~~. (Previously Presented) The system of claim ~~39~~<sup>7</sup>, wherein the at least one reaction vessel includes a clear or translucent cap optically coupled to the detector by a sealed light transmission path.

11 ~~46~~. (Previously Presented) The system of claim ~~45~~<sup>10</sup>, wherein the sealed light transmission path is a fiber optic cable.

47. (Canceled)

6 ~~48~~. (New) The instrument of claim ~~30~~<sup>1</sup>, wherein the thermal cycler is computer-controlled.

12 ~~49~~. (New) The system of claim ~~39~~<sup>7</sup>, wherein the thermal cycler is computer-controlled.